

BOARD OF APPEALS CASE NO. 4935

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BEFORE THE

APPLICANT: Mr. & Mrs. Lloyd Presberry

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ZONING HEARING EXAMINER

REQUEST: Variance to permit an in-ground swimming pool within the limited area of disturbance; 1303 Liatris Lane, Belcamp

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 6/23/99 & 6/30/99

HEARING DATE: August 11, 1999

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Record: 6/25/99 & 7/2/99

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### **ZONING HEARING EXAMINER'S DECISION**

The Applicants, Lloyd and Yolanda Presberry, appeared before the Hearing Examiner requesting a variance to Section 267-41.1(L) of the Harford County Code, to permit a in-ground swimming pool within the limited area of disturbance as required by amendments to the management area boundary in an R4/PRD/CR/IDA District.

The subject parcel is located at 1303 Liatris Lane in the First Election District. The parcel is identified as Parcel No. 811, in Grid 1-E, on Tax Map 62. The parcel contains .211 acres, more or less, all of which is zoned R4/PRD/CR/IDA.

Mr. Lloyd Presberry appeared and testified that the subject property is improved by a single family dwelling and a shed with dimensions of 8 feet by 8 feet. The Applicant said he is requesting a variance to construct an in-ground swimming pool, one corner of which will be located within the limited area of disturbance on the subject parcel.

The witness said the parcel is unique due to its unusual shape and the existence of the critical area. The witness also said the parcel is encumbered by drainage and utility easements on both sides and across the rear of the property. The witness said he did not feel the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code.

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Mr. Anthony S. McClune, Manager, Division of Land Use Management, appeared and testified that the Department of Planning & Zoning has received correspondence from the Chesapeake Bay Critical Area Commission recommending that the variance be granted and agreeing with the recommendations of the Critical Area Planner of the Department of Planning and Zoning that mitigation in the amount of three times the area being constructed within the designated limit of disturbance be provided by the Applicant. Mr. McClune said that the proposed pool will have minimal impact on the limits of disturbance area of this lot as the area was subject to prior disturbance. Mr. McClune said aerial photographs show disturbance in the area of the proposed pool at the time of construction of the Applicants' dwelling.

Mr. McClune went on to say that the request should have little or no impact on adjacent properties and/or the intent of the Code. Mr. McClune said the Staff Report recommends approval of the Applicants' request with conditions.

### **CONCLUSION:**

The Applicants are requesting a variance to Section 267-41.1(L) of the Harford County Code, to permit an in-ground swimming pool within the limits of disturbance as required by amendments to the management area boundary in an R4/PRD/CR/IDA area.

The testimony of the Applicant was that the subject parcel is unique because of its unusual shape, drainage and utility easements on both sides and across the rear of the lot, as well as the existence of the management area. Attachment 3 of the Staff Report indicates that one corner of the pool will be within the management area; however, the testimony of Mr. McClune indicated that the area had already been disturbed by construction of the dwelling and that no mature trees will be removed for the purpose of constructing the pool.

No evidence was introduced that approval of the variance will be substantially detrimental to adjacent properties or materially impair the purpose of the Code.

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Therefore, it is the recommendation of the Hearing Examiner that the requested variance to allow a portion of the Applicant's pool within the limits of disturbance in the management area be approved, subject to the following conditions:

1. The Applicant move the existing shed out of the limited area of disturbance and obtain all necessary permits and inspections for the shed.
2. The Applicant obtain all necessary permits and inspections for the pool, as well as provide the necessary fencing as required by the Building Code.
3. The Applicant submit a landscape and planning plan which delineates mitigation in the amount of three times the area being constructed within the designated limit of disturbance prior to the issuance of a building permit.

Date AUGUST 26, 1999

  
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L. A. Hinderhofer  
Zoning Hearing Examiner